

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 14, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2595

Introduced by Assembly Member Hall

(Coauthor: Senator Price)

February 24, 2012

An act to add Section 35616 to the Public Resources Code, relating to water, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2595, as amended, Hall. Desalination.

The Cobey-Porter Saline Water Conversion Law authorizes the Department of Water Resources, either independently or in cooperation with public or private entities to conduct a program of investigation, study, and evaluation in the field of saline water conversion, to provide assistance to persons or entities seeking to construct desalination facilities, and after submission of a written report and upon appropriation from the Legislature, to finance, construct, and operate saline water conversion facilities. Existing law required the department, not later than July 1, 2004, to report to the Legislature on potential opportunities and impediments for using seawater and brackish water desalination, and to examine what role, if any, the state should play in furthering the use of desalination technology. Existing law also required the department to convene a Water Desalination Task Force, comprised of

representatives from listed agencies and interest groups, to advise the department in carrying out these duties and in making recommendations to the Legislature.

The California Ocean Protection Act establishes the Ocean Protection Council in state government. Existing law requires the Ocean Protection Council to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies, and to identify and recommend to the Legislature changes in law needed to achieve these goals.

This bill would require the council to report to the Legislature, by December 31, 2014, on opportunities for ~~streamlining~~ *improving* the current statewide permitting processes for seawater desalination facilities, ~~including an evaluation of impediments to desalination projects relative to the current permitting process~~ and to recommend potential administrative and legislative actions for improving the permitting process while maintaining current regulatory protections. The bill would require the ~~council~~ *chair of the council to select a member of the council to be the chair of the Seawater Desalination Permit Improvement Task Force. This bill would require the chair of the task force* to convene the Seawater Desalination Permit Improvement Task Force to review the current permitting processes required by all state regulatory agencies for the planning, design, construction, monitoring, and operation of seawater desalination facilities, to identify opportunities for improving the permitting process, and to advise the council in making the report.

~~Existing law, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters as Proposition 50 at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of \$3,440,000,000, of which \$100,000,000 is available, upon appropriation by the Legislature, to the department for grants for specified projects, including, but not limited to, at least \$50,000,000 for the desalination of ocean or brackish waters, as prescribed.~~

~~This bill would appropriate \$250,000 of these funds to the department to pay the costs of convening the Seawater Desalination Permit Improvement Task Force and preparation of the report.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) A growing population, climate change uncertainty, and the
4 need to grow the state's economy while protecting and restoring
5 our fish and wildlife habitats make it essential that the state manage
6 its water resources as efficiently as possible.

7 (b) Diversifying regional water supply portfolios will increase
8 water supply reliability and advance state policies for regional
9 self-sufficient water supplies. In addition to stormwater capture,
10 water recycling, and conservation, water suppliers, *as defined in*
11 *subdivision (b) of Section 1745 of the Water Code*, located in
12 coastal areas are considering seawater desalination to help diversify
13 their water supply portfolios. These water suppliers include
14 seawater desalination as potential future supplies in their most
15 recent urban water management plans. Seawater desalination
16 projects are also elements of several integrated regional water
17 management plans.

18 (c) In addition to providing much needed water supply reliability
19 against future uncertainties, seawater desalination projects have
20 the potential to create new jobs in the state over the next 10 years
21 and generate much needed investment in local economies. Reverse
22 osmosis and other seawater desalination technologies were
23 pioneered and developed in California, and desalination technology
24 remains an important industrial sector in San Diego County and
25 other regions.

26 (d) Proponents for seawater desalination projects must obtain
27 close to 30 local, state, and federal permits and related approvals.
28 The procedure for obtaining key state permits is not always clear,
29 and there can be significant redundancy in the requirements
30 between some of the permitting agencies. As a result, both the cost
31 and the timeframe for obtaining state permits has become a
32 potential impediment for some proposed desalination projects.

33 (e) As a result of Chapter 62 of the Statutes of 2003 (Senate
34 Bill 600), a Water Desalination Task Force was convened and it
35 delivered a report to the Legislature that included the following

1 recommendation: “To improve communication, cooperation, and
2 consistency in permitting processes, encourage review processes
3 for each desalination project to be coordinated among regulators
4 and the public.”

5 (f) Section 12947 of the Water Code states the intent of the
6 Legislature that the Department of Water Resources undertake to
7 find economic and efficient methods of desalting saline water so
8 that desalted water may be made available to help meet the growing
9 water requirements of the state.

10 (g) Existing law requires the State Water Resources Control
11 Board to formulate and adopt a water quality control plan for ocean
12 waters of the state known as the California Ocean Plan. The board
13 is currently updating the California Ocean Plan with
14 environmentally protective, science-based regulations, specifically
15 for seawater desalination projects. These new regulations will be
16 implemented through existing national pollutant discharge
17 elimination system (NPDES) permits managed by regional water
18 quality control boards.

19 SEC. 2. Section 35616 is added to the Public Resources Code,
20 to read:

21 35616. (a) (1) Not later than December 31, 2014, the Ocean
22 Protection Council shall report to the Legislature on opportunities
23 for improving the current statewide permitting processes for
24 seawater desalination facilities in California. The report shall
25 investigate opportunities to improve the process. The report shall
26 also recommend potential administrative and legislative actions
27 for improving the permitting process while maintaining current
28 regulatory protections.

29 (2) The report submitted pursuant to this subdivision shall
30 comply with Section 9795 of the Government Code.

31 (3) This subdivision shall become inoperative on January 1,
32 2018, pursuant to Section 10231.5 of the Government Code.

33 (b) The Ocean Protection Council shall convene a task force,
34 to be known as the Seawater Desalination Permit Improvement
35 Task Force, to review the current permitting processes required
36 by all state regulatory agencies for the planning, design,
37 construction, monitoring, and operation of seawater desalination
38 facilities, to identify opportunities for improving the permitting
39 process, and to advise the Ocean Protection Council in

1 implementation of subdivision (a), including making
2 recommendations to the Legislature on the following:

3 ~~(1) Establishing a clear permit process.~~

4 ~~(2)~~

5 ~~(1) Defining the regulatory scope for each permitting agency.~~

6 ~~(3) Eliminating redundant requirements between California~~

7 ~~permitting agencies.~~

8 ~~(4)~~

9 (2) Describing the data needed to complete each permit.

10 ~~(5)~~

11 (3) Developing best practices for communication among
12 regulatory agencies and the regulated community.

13 ~~(6)~~

14 (4) Ensuring that any recommended changes do not negatively
15 affect current regulatory protections or the independent review of
16 an independent agency.

17 (c) (1) The recommendations developed by the Seawater
18 Desalination Permit Improvement Task Force shall focus on how
19 state regulations are applied by permitting agencies and
20 commissions during the permitting process.

21 (2) The recommended actions should review the scope for each
22 permitting agency and commission, without negatively affecting
23 current regulatory protections or the independent review of an
24 independent agency.

25 (3) The recommended actions shall accommodate any new
26 policies developed by the State Water Resources Control Board
27 for the California Ocean Plan, the Department of Water Resources
28 for the 2013 California Water Plan, and any other relevant agency.

29 (4) The recommended actions should be made in consideration
30 of the 2004 Seawater Desalination and the California Coastal Act
31 report prepared by the California Coastal Commission, the 2003
32 report prepared by the California Water Desalination Task Force
33 pursuant to Chapter 957 of the Statutes of 2002, and the 2008
34 California Desalination Planning Handbook prepared by the Center
35 for Collaborative Policy at California State University, Sacramento.

36 (5) The recommendations shall discuss how the desalination
37 should fit in as an element of a balanced state water portfolio that
38 includes conservation and water recycling to the maximum extent
39 possible.

1 (d) (1) In addition to the Ocean Protection Council, the Seawater
2 Desalination Permit Improvement Task Force shall include one
3 representative from each of the following state entities:
4 (A) Department of Water Resources.
5 (B) State Water Resources Control Board.
6 (C) California Coastal Commission.
7 (D) State Lands Commission.
8 (E) State Department of Public Health.
9 (2) The Seawater Desalination Permit Improvement Task Force
10 shall include one representative from each of the following, as
11 determined by the Ocean Protection Council:
12 (A) Commission for Economic Development.
13 (B) State Energy Resources Conservation and Development
14 Commission.
15 (C) A recognized environmental advocacy group.
16 (D) Three separate and broadly recognized environmental
17 advocacy groups that focus on coastal protection.
18 (E) A water purveyor, as defined in Section 512 of the Water
19 Code, that is a public entity, as defined in Section 514 of the Water
20 Code, that is developing or proposing to develop a seawater
21 desalination facility.
22 (F) An entity that supplies water at wholesale to urban water
23 suppliers, as defined in Section 10617 of the Water Code.
24 (G) A nonprofit association created to further the use of seawater
25 desalination that includes both private and public members.
26 (H) A recognized environmental justice advocacy group.
27 (I) A recognized business advocacy group.
28 (J) A recognized organization representing public union
29 members.
30 (K) A recognized organization representing private union
31 members.
32 (L) California Environmental Protection Agency.
33 (M) Natural Resources Agency.
34 (N) Department of Parks and Recreation.
35 (O) Department of Fish and Game.
36 (P) A recognized nonprofit association representing water
37 companies regulated by the Public Utilities Commission.
38 (3) The Seawater Desalination Permit Improvement Task Force
39 shall include one representative from each coastal regional water

1 quality control board provided that representatives are available
2 to participate.

3 (4) A member of the Seawater Desalination Permit Improvement
4 Task Force may appoint an alternate to represent the member at a
5 meeting of the task force.

6 (5) ~~A representative of the Ocean Protection Council~~ *The chair*
7 *of the Seawater Desalination Permit Improvement Task Force*
8 *shall be a member of the Ocean Protection Council selected by*
9 *the chair of the Ocean Protection Council. The chair of the*
10 *Seawater Desalination Permit Improvement Task Force shall*
11 *convene the Seawater Desalination Permit Improvement Task*
12 *Force and act as chair of the task force.*

13 (6) The representatives identified in paragraphs (2) and (3) shall
14 have a nonvoting advisory role.

15 (e) The report required in paragraph (1) of subdivision (a) shall
16 be adopted by majority vote of the representatives identified in
17 paragraphs (1) and (5). In the case of a tie vote, the chair shall vote
18 again to break the tie.

19 (f) ~~Pursuant to Section 79545, the sum of two hundred fifty~~
20 ~~thousand dollars (\$250,000) is hereby appropriated to the~~
21 ~~Department of Water Resources for expenditure by the department~~
22 ~~to pay the costs for convening the Seawater Desalination Permit~~
23 ~~Improvement Task Force and for preparation of the report pursuant~~
24 ~~to subdivision (a).~~